

Statement of
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United States Department of Agriculture
Committee on Resources
U.S. House of Representatives
Washington, D.C.
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Concerning:

H.R.1899, Cape Fox Land Entitlement Adjustment Act of 2003

Mr. Chairman and Members of the Committee, thank you for the opportunity to appear before you today to provide the Department's views on H.R. 1899, a bill to resolve certain conveyances and provide for alternative land selections under the Alaska Native Claims Settlement Act related to Cape Fox Corporation and Sealaska Corporation, and for other purposes. The Senate Subcommittee on Public Lands and Forests held a field hearing in Anchorage, Alaska on August 5, 2003 on companion bill S. 1354. Identical USDA testimony was presented at that hearing.

H.R. 1899—Cape Fox Land Entitlement Adjustment Act of 2003

This bill, as introduced, provides for an additional 99 acres of Alaska Native Claims Settlement Act (ANCSA) selection area for Cape Fox and Sealaska Corporations at Clover Passage on Revillagigedo Island. It also requires the Forest Service to offer and, if the offer is accepted by Cape Fox, to complete a land exchanges with the Cape Fox and Sealaska Corporations.

Pursuant to the land exchanges provided for in sections 5 and 6 of the bill:

- Cape Fox Corporation would receive the surface and subsurface of 2,663.9 acres of national forest system (NFS) lands at the Jualin Mine site near Berners Bay, north of Juneau, which is the light yellow area on the map, dated March 18, 2002, attached to my testimony.
- Sealaska Corporation would receive the surface and subsurface of NFS lands to equalize values of Sealaska subsurface lands and interests in land it conveys to the U.S. Sealaska Corporation would select NFS lands of equal value from within a 9,329-acre pool of NFS lands at the Kensington Mine, also near Berners Bay. This is the yellow area on the map dated April 2002, attached to my testimony.
- The Forest Service would receive lands and interests in lands of equal value from within:
(1) a pool of approximately 2,900 acres, including a public trail easement, offered by Cape Fox (surface) and Sealaska (subsurface) on Revillagigedo Island, which is identified on the map dated March 15, 2002, attached to my testimony; (2) 2,506 acres of Sealaska subsurface estate, located at Upper Harris River and Kitkun Bay, on Prince of Wales Island; and (3) 2,698 acres of Sealaska subsurface land interests remaining to be conveyed to Sealaska pursuant to the Haida Land Exchange Act and the Sealaska/Forest Service Split Estate Exchange Agreement of 1991. Cape Fox would choose the lands to be conveyed to the United States from the 2,900-acre pool in (1) above.

The Forest Service previously worked with Senator Murkowski's staff to clarify and improve the language when these exchanges were under consideration in the 107th Congress. The Department could support the enactment of H.R. 1899 with the changes below:

- 1) We request that Sec. 5(d) be clarified to read "...by Cape Fox under subsection (c) are equal in market value to the lands described in subsection (b) based on appraisal reports approved by the Secretary and prepared in conformance with the Uniform Appraisal Standards for Federal Land Acquisitions and the Uniform Standards of Professional Appraisal Practice." Similarly, we request that Sec. 6(b) be clarified to read "...selected lands are equal in market value to the lands described in subsection (c), and may adjust amount of selected lands in order to reach

agreement with Sealaska regarding equal market value based on appraisal reports approved by the Secretary and prepared in conformance with the Uniform Appraisal Standards for Federal Land Acquisitions and the Uniform Standards of Professional Appraisal Practice.”

- 2) We request that Sec. 7(a) be clarified to read “...shall be of equal market value.” and “...estimates of market value of exchange lands with supporting information in conformance with the Uniform Appraisal Standards for Federal Land Acquisitions and the Uniform Standards of Professional Appraisal Practice.”
- 3) Sec. 5(f) gives the Secretary of Agriculture ninety days after enactment to attempt to consummate an exchange agreement with Cape Fox. During this ninety day period, Cape Fox (pursuant to Sec. 5(c)) has sixty days to identify lands to be conveyed to the U.S., potentially only leaving thirty days for the U.S. to complete an appraisal, obtain title information, and complete the exchange process. Similarly, Sec. 6(d) only gives the Secretary of Agriculture ninety days after receipt of selections by Sealaska to attempt to enter into an exchange agreement with Sealaska. We request these time frames be extended.
- 4) A normal component of a land exchange includes a provision requiring the exchanged lands to be subject to satisfactory environmental site survey and remediation pursuant to the American Society for Testing and Materials (ASTM) Standard Guide for Environmental Site Assessment E 1903. We request this requirement be added to Sec. 7(b).

Conclusion

With these minor changes, the Department of Agriculture supports the enactment of H.R. 1899. We believe there are significant benefits to the government from enactment, including consolidation of public lands on the southern part of the Tongass and elimination of split estate ownership. Thank you for the opportunity to present the views of the Department of Agriculture. This concludes my testimony. I would be happy to answer any questions that you may have.